
HOUSE BILL No. 1685

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-2-15; IC 6-3.1-29; IC 10-11; IC 15-3-3-18; IC 16-18-2-204.5; IC 16-42-19.5; IC 25-26-17; IC 35-33-8; IC 35-48-4-14.5.

Synopsis: Methamphetamine. Requires a law enforcement agency to report the existence of a methamphetamine laboratory to the: (1) state police; (2) fire department; (3) county health department; and, if there is a child less than 14 years of age at the methamphetamine laboratory, to notify the division of family and children. Provides that the state police shall adopt guidelines concerning the report of a methamphetamine laboratory. Grants an income tax credit to a person who uses a chemical additive or locking device to make the use or theft of anhydrous ammonia for the manufacture of methamphetamine more difficult. Permits ephedrine and pseudoephedrine to be dispensed only at a pharmacy by a licensed pharmacist or certified pharmacy technician and in a package that contains not more than 12 capsules. Requires a person who purchases ephedrine or pseudoephedrine to present photo identification and sign a receipt or record book. Makes unlawful dispensing of ephedrine or pseudoephedrine a Class A misdemeanor. Allows a nonresident pharmacy to sell a drug containing ephedrine or pseudoephedrine to a resident by mail order if the nonresident pharmacy is registered with the board of pharmacy and meets certain requirements. Makes the sale of a drug containing ephedrine or pseudoephedrine by mail order a Class D felony if the seller is not a registered nonresident pharmacy. Exempts ephedrine or pseudoephedrine in liquid form or prescribed from the dispensing, possession, and mail order sale restrictions. Permits a court to require a defendant demonstrating a pattern of repeated illegal use or manufacture of a controlled substance to participate in a drug treatment program as a condition of bail. Makes other changes.

Effective: July 1, 2005.

Van Haaften, Kersey, Ulmer, Foley

January 19, 2005, read first time and referred to Committee on Courts and Criminal Code.



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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1685

A BILL FOR AN ACT to amend the Indiana Code concerning criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 5-2-15 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]:
4 **Chapter 15. Methamphetamine Lab Reporting**
5 **Sec. 1. As used in this chapter, "law enforcement agency" has**
6 **the meaning set forth in IC 10-11-8-2.**
7 **Sec. 2. As used in this chapter, "methamphetamine laboratory"**
8 **means a location or facility that:**
9 (1) is being used;
10 (2) was intended to be used; or
11 (3) has been used;
12 **to produce methamphetamine.**
13 **Sec. 3. A law enforcement agency that discovers a**
14 **methamphetamine laboratory shall report the existence and**
15 **location of the methamphetamine laboratory to the:**
16 (1) state police;
17 (2) local fire department; and



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(3) county health department or multiple county health department, if applicable;
on a form and in the manner prescribed by guidelines adopted by the state police under IC 10-11-2-31.

Sec. 4. A law enforcement agency that discovers a child less than fourteen (14) years of age at a methamphetamine laboratory shall notify the division of family and children.

SECTION 2. IC 6-3.1-29 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 29. Ammonia Security Credit

Sec. 1. As used in this chapter, "additive" means a commercial additive determined by the state chemist under IC 15-3-3-18 to:

- (1) render ammonia unusable to produce methamphetamine;
- (2) significantly interfere with the use of ammonia to produce methamphetamine; or
- (3) make the theft of ammonia more difficult by staining, dyeing, or otherwise distinctively identifying the:

(A) ammonia;

(B) equipment or container used in the theft of the ammonia; or

(C) person committing the theft of the ammonia.

Sec. 2. As used in this chapter, "ammonia" has the meaning set forth in IC 15-3-2-3.

Sec. 3. As used in this chapter, "ammonia locking device" means a lock intended to prevent the theft of ammonia.

Sec. 4. As used in this chapter, "state tax liability" means a taxpayer's total tax liability incurred under IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax), as computed after the application of all credits that under IC 6-3.1-1-2 are to be applied before the credit provided by this chapter.

Sec. 5. As used in this chapter, "taxpayer" means a person or an entity that has any state tax liability.

Sec. 6. As used in this chapter, "treated ammonia" means ammonia that has been treated with an additive.

Sec. 7. This chapter applies to taxable years beginning after December 31, 2005.

Sec. 8. A taxpayer that purchases treated ammonia or an ammonia locking device is entitled to a credit against the taxpayer's state tax liability in an amount equal to:

(1) the product of:

(A) the number of tons of treated ammonia purchased by

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- the taxpayer; multiplied by
 (B) nine dollars (\$9); and
 (2) the cost of one (1) or more ammonia locking devices or one
 hundred dollars (\$100), whichever is less.

Sec. 9. To receive the credit provided by this chapter, a taxpayer must claim the credit on the taxpayer's state tax return or returns in the manner prescribed by the department. The taxpayer must file with the department information that the department determines necessary to calculate the credit provided under this chapter.

Sec. 10. (a) If a taxpayer that claims a credit under this chapter is a pass through entity (as defined in IC 6-3.1-11.5-8.5) that does not have state tax liability for a taxable year against which the credit may be applied, a shareholder, partner, or member of the pass through entity is entitled to a credit equal to the product of:

- (1) the credit determined for the pass through entity for the taxable year; multiplied by
 (2) the percentage of the pass through entity's distributive income to which the shareholder, partner, or member is entitled.

(b) If the amount determined under subsection (a) exceeds the state tax liability of the shareholder, partner, or member, the shareholder, partner, or member may not carry over the excess to following taxable years.

Sec. 11. (a) If the amount determined under section 8 of this chapter for a taxable year exceeds the taxpayer's state tax liability for the taxable year, the taxpayer may carry over the excess to following taxable years.

(b) A taxpayer is not entitled to a carryback or refund of any unused credit.

SECTION 3. IC 10-11-2-31 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 31. (a) The superintendent shall adopt:

- (1) guidelines; and
 (2) a reporting form or a specified electronic format, or both; for the report of a methamphetamine laboratory by a law enforcement agency under IC 5-2-15-3.

(b) The guidelines adopted under this section shall require a law enforcement agency to report the existence of a methamphetamine laboratory to the:

- (1) department;
 (2) local fire department; and

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(3) county health department or multiple county health department, if applicable;
on the form or in the specified electronic format adopted by the superintendent.

(c) The guidelines adopted under this section:

(1) may incorporate a recommendation of the methamphetamine abuse task force (IC 5-2-14) that the superintendent determines to be relevant;

(2) may require the department to report the existence of the methamphetamine laboratory to one (1) or more additional agencies or organizations;

(3) must require the department to maintain reports filed under IC 5-2-15-3 in a manner permitting an accurate assessment of:

(A) the number of methamphetamine laboratories located in Indiana in a specified time period;

(B) the geographical dispersal of methamphetamine laboratories located in Indiana in a specified period; and

(C) any other information that the superintendent determines to be relevant; and

(4) must require a law enforcement agency to report any other information that the superintendent determines to be relevant.

SECTION 4. IC 10-11-8-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The superintendent, with input from other law enforcement agencies, may develop and maintain a **meth watch** program to inform retailers about illicit methamphetamine production, distribution, and use in Indiana.

SECTION 5. IC 15-3-3-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. (a) Not later than January 1 of each year, the state chemist shall publish a list of commercial additives that:

(1) render ammonia unusable to produce methamphetamine;

(2) significantly interfere with the use of ammonia to produce methamphetamine; or

(3) make the theft of ammonia more difficult by staining, dyeing, or otherwise distinctively identifying the:

(A) ammonia;

(B) equipment or container used in the theft of the ammonia; or

(C) person committing the theft of the ammonia.

The state chemist shall prepare the list in consultation with the

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state police department established by IC 10-11-2-4.

(b) The state chemist shall provide a copy of the list described in subsection (a) to the following:

(1) The state police department.

(2) The department of state revenue.

(c) The state chemist may adopt rules under IC 4-22-2 to carry out the duties imposed by this section.

SECTION 6. IC 16-18-2-204.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 204.5. "Liquid ephedrine or pseudoephedrine" means a drug that:**

(1) contains ephedrine or pseudoephedrine;

(2) is in liquid, liquid capsule, or gel capsule form; and

(3) has an active ingredient in addition to ephedrine or pseudoephedrine.

SECTION 7. IC 16-42-19.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

Chapter 19.5. Drugs: Sale of Ephedrine and Pseudoephedrine

Sec. 1. This chapter does not apply to:

(1) liquid ephedrine or pseudoephedrine;

(2) ephedrine or pseudoephedrine dispensed pursuant to a prescription; or

(3) the sale of a drug containing ephedrine or pseudoephedrine to a licensed health care provider, pharmacist, retail distributor, wholesaler, manufacturer, or an agent of any of these persons if the sale occurs in the regular course of lawful business activities.

Sec. 2. A person may not sell a drug containing ephedrine or pseudoephedrine unless:

(1) the drug is dispensed at a pharmacy having a valid pharmacy permit;

(2) the drug is dispensed by a licensed pharmacist or certified pharmacy technician; and

(3) the purchaser:

(A) presents valid photo identification containing the purchaser's date of birth; and

(B) signs a receipt or record book showing the:

(i) date of the transaction;

(ii) name of the purchaser; and

(iii) amount of the drug purchased.

Sec. 3. A person may not sell a drug containing ephedrine or

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1 pseudoephedrine in a package containing more than twelve (12)
2 capsules.

3 **Sec. 4. A person who knowingly or intentionally violates section**
4 **2 or section 3 of this chapter commits unlawful sale of ephedrine or**
5 **pseudoephedrine, a Class A misdemeanor.**

6 **Sec. 5. (a) This section applies to the offer or sale of a drug**
7 **containing ephedrine or pseudoephedrine to a resident of Indiana**
8 **by mail order.**

9 **(b) As used in this section, "by mail order" means:**

10 **(1) over the Internet; or**

11 **(2) through the United States Postal Service or another**
12 **delivery service.**

13 **(c) As used in this section, "nonresident pharmacy" has the**
14 **meaning set forth in IC 25-26-17-2.**

15 **(d) A nonresident pharmacy may offer or sell a drug containing**
16 **ephedrine or pseudoephedrine to a resident of Indiana by mail**
17 **order only if the nonresident pharmacy complies with the following**
18 **conditions:**

19 **(1) The nonresident pharmacy is registered with the board of**
20 **pharmacy and has complied with:**

21 **(A) IC 25-26-17; and**

22 **(B) rules adopted by the board of pharmacy concerning a**
23 **nonresident pharmacy.**

24 **(2) A nonresident pharmacy may not sell more than two (2)**
25 **twelve (12) capsule packages to the same address or to the**
26 **same purchaser in a seven (7) day period.**

27 **(3) For every Indiana resident who purchases a drug**
28 **containing ephedrine or pseudoephedrine, a nonresident**
29 **pharmacy must record the:**

30 **(A) purchaser's name;**

31 **(B) purchaser's address;**

32 **(C) address to which the drug containing ephedrine or**
33 **pseudoephedrine was shipped; and**

34 **(D) quantity of drugs containing ephedrine or**
35 **pseudoephedrine purchased by the Indiana resident.**

36 **(4) Every thirty (30) days or more frequently, if required by**
37 **rules adopted by the board of pharmacy, a nonresident**
38 **pharmacy must transmit to the board of pharmacy the name,**
39 **address, shipping address, and quantity of drugs containing**
40 **ephedrine or pseudoephedrine purchased by a resident of**
41 **Indiana.**

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1 (1) person that is not a nonresident pharmacy; or
 2 (2) nonresident pharmacy that does not comply with the
 3 conditions set forth in subsection (d);
 4 that knowingly or intentionally offers or sells a drug containing
 5 ephedrine or pseudoephedrine to a resident of Indiana by mail
 6 order commits unlawful sale of ephedrine or pseudoephedrine by
 7 mail order, a Class D felony.

8 **Sec. 6. The Indiana board of pharmacy may adopt rules under**
 9 **IC 4-22-2 to implement and enforce this chapter.**

10 SECTION 8. IC 25-26-17-4 IS AMENDED TO READ AS
 11 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. A nonresident
 12 pharmacy must:

- 13 (1) comply with all requests for information made by the board;
- 14 (2) respond directly to all communications from the board
- 15 concerning emergency circumstances arising from errors in the
- 16 dispensing of drugs to the residents of Indiana;
- 17 (3) maintain records of drugs dispensed to patients in Indiana in
- 18 a manner making those records readily retrievable and identifiable
- 19 from the other business records of the pharmacy; ~~and~~
- 20 **(4) transmit to the board the name, address, shipping address,**
 21 **and quantity of drugs containing ephedrine or**
 22 **pseudoephedrine purchased by a resident of Indiana in**
 23 **accordance with IC 16-42-19.5-5 and rules adopted by the**
 24 **board; and**
- 25 ~~(4)~~ **(5) provide a toll free telephone service that:**
 - 26 (A) facilitates communications between a patient in Indiana
 - 27 and a pharmacist with access to the patient's records;
 - 28 (B) is attended by a pharmacist with access to a patient's
 - 29 records during the nonresident pharmacy's regular business
 - 30 hours, but not less than six (6) days per week and not less than
 - 31 forty (40) hours per week; and
 - 32 (C) has the toll free telephone number displayed on a label
 - 33 affixed to each container of dispensed drugs.

34 SECTION 9. IC 25-26-17-8 IS ADDED TO THE INDIANA CODE
 35 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 36 1, 2005]: **Sec. 8. The board shall make available to a law**
 37 **enforcement agency records concerning an Indiana resident's mail**
 38 **order purchase of a drug containing ephedrine or pseudoephedrine**
 39 **from a nonresident pharmacy in accordance with state and federal**
 40 **law.**

41 SECTION 10. IC 35-33-8-1 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this

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chapter, "bail bond" means a bond executed by a person who has been arrested for the commission of an offense, for the purpose of ensuring:

- (1) the person's appearance at the appropriate legal proceeding;
- (2) another person's physical safety; or
- (3) the safety of the community, **including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

SECTION 11. IC 35-33-8-3.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.2. (a) A court may admit a defendant to bail and impose any of the following conditions to assure the defendant's appearance at any stage of the legal proceedings, or, upon a showing of clear and convincing evidence that the defendant poses a risk of physical danger to another person or the community, to assure the public's physical safety, **including the public's safety from the person's pattern of illegal use or manufacture of a controlled substance:**

- (1) Require the defendant to:
 - (A) execute a bail bond with sufficient solvent sureties;
 - (B) deposit cash or securities in an amount equal to the bail;
 - (C) execute a bond secured by real estate in the county, where thirty-three hundredths (0.33) of the true tax value less encumbrances is at least equal to the amount of the bail; or
 - (D) post a real estate bond.
 - (2) Require the defendant to execute a bail bond by depositing cash or securities with the clerk of the court in an amount not less than ten percent (10%) of the bail. If the defendant is convicted, the court may retain all or a part of the cash or securities to pay fines, costs, fees, and restitution, if ordered by the court. A portion of the deposit, not to exceed ten percent (10%) of the monetary value of the deposit or fifty dollars (\$50), whichever is the lesser amount, may be retained as an administrative fee. The clerk shall also retain from the deposit under this subdivision the following:
 - (A) Fines, costs, fees, and restitution as ordered by the court.
 - (B) Publicly paid costs of representation that shall be disposed of in accordance with subsection (b).
 - (C) In the event of the posting of a real estate bond, the bond shall be used only to insure the presence of the defendant at any stage of the legal proceedings, but shall not be foreclosed for the payment of fines, costs, fees, or restitution.
- The individual posting bail for the defendant or the defendant admitted to bail under this subdivision must be notified by the sheriff, court, or clerk that the defendant's deposit may be

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forfeited under section 7 of this chapter or retained under subsection (b).

(3) Impose reasonable restrictions on the activities, movements, associations, and residence of the defendant during the period of release.

(4) Require the defendant to refrain from any direct or indirect contact with an individual.

(5) Place the defendant under the reasonable supervision of a probation officer or other appropriate public official.

(6) Release the defendant into the care of a qualified person or organization responsible for supervising the defendant and assisting the defendant in appearing in court. The supervisor shall maintain reasonable contact with the defendant in order to assist the defendant in making arrangements to appear in court and, where appropriate, shall accompany the defendant to court. The supervisor need not be financially responsible for the defendant.

(7) Release the defendant on personal recognizance unless:

(A) the state presents evidence relevant to a risk by the defendant:

(i) of nonappearance; or

(ii) to the physical safety of the public; and

(B) the court finds by a preponderance of the evidence that the risk exists.

(8) Require the defendant to enroll in a drug treatment program, if the court determines that the defendant has a pattern of repeated illegal use or manufacture of a controlled substance.

~~(8)~~ **(9) Impose any other reasonable restrictions designed to assure the defendant's presence in court or the physical safety of another person or the community, including the safety of the community from the person's pattern of illegal use or manufacture of a controlled substance.**

(b) Within thirty (30) days after disposition of the charges against the defendant, the court that admitted the defendant to bail shall order the clerk to remit the amount of the deposit remaining under subsection (a)(2) to the defendant. The portion of the deposit that is not remitted to the defendant shall be deposited by the clerk in the supplemental public defender services fund established under IC 33-40-3.

(c) For purposes of subsection (b), "disposition" occurs when the indictment or information is dismissed or the defendant is acquitted or convicted of the charges.

(d) With the approval of the clerk of the court, the county sheriff

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may collect the bail posted under this section. The county sheriff shall remit the bail to the clerk of the court by the following business day.

(e) When a court imposes a condition of bail described in subsection (a)(4):

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the prosecuting attorney shall file a confidential form prescribed or approved by the division of state court administration with the clerk.

SECTION 12. IC 35-48-4-14.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14.5. **(a) This section does not apply to the possession of:**

(1) liquid ephedrine or pseudoephedrine (as defined in IC 16-18-2-204.5); or

(2) ephedrine or pseudoephedrine that is dispensed upon a prescription.

~~(a)~~ **(b)** As used in this section, "chemical reagents or precursors" refers to one (1) or more of the following:

- (1) Ephedrine.
- (2) Pseudoephedrine.
- (3) Phenylpropanolamine.
- (4) The salts, isomers, and salts of isomers of a substance identified in subdivisions (1) through (3).
- (5) Anhydrous ammonia or ammonia solution (as defined in IC 22-11-20-1).
- (6) Organic solvents.
- (7) Hydrochloric acid.
- (8) Lithium metal.
- (9) Sodium metal.
- (10) Ether.
- (11) Sulfuric acid.
- (12) Red phosphorous.
- (13) Iodine.
- (14) Sodium hydroxide (lye).
- (15) Potassium dichromate.
- (16) Sodium dichromate.
- (17) Potassium permanganate.
- (18) Chromium trioxide.

However, the term does not refer to liquid ephedrine or pseudoephedrine (as defined in IC 16-18-2-204.5).

~~(b)~~ **(c)** A person who possesses more than ten (10) grams of ephedrine, pseudoephedrine or phenylpropanolamine, ~~the salts, isomers or salts of isomers of ephedrine, pseudoephedrine or~~

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1 ~~phenylpropanolamine or a combination of any of these substances~~
 2 ~~exceeding ten (10) grams pure or adulterated, or a combination of~~
 3 ~~any of these substances~~, commits a Class D felony. However, the
 4 offense is a Class C felony if the person possessed:

5 (1) a firearm while possessing more ten (10) grams of ephedrine,
 6 pseudoephedrine or phenylpropanolamine, ~~the salts, isomers or~~
 7 ~~salts of isomers of ephedrine, pseudoephedrine or~~
 8 ~~phenylpropanolamine or a combination of any of these substances~~
 9 ~~exceeding ten (10) grams pure or adulterated, or a combination~~
 10 ~~of any of these substances~~; or

11 (2) more than ten (10) grams of ephedrine, pseudoephedrine, or
 12 phenylpropanolamine, ~~the salts, isomers or salts of isomers of~~
 13 ~~ephedrine, pseudoephedrine, or phenylpropanolamine, or a~~
 14 ~~combination of any of these substances exceeding ten (10) grams~~
 15 ~~in pure or adulterated, or a combination of any of these~~
 16 ~~substances~~, on or within one thousand (1,000) feet of:

- 17 (A) school property;
- 18 (B) a public park;
- 19 (C) a family housing complex; or
- 20 (D) a youth program center.

21 ~~(c)~~ (d) A person who possesses anhydrous ammonia or ammonia
 22 solution (as defined in IC 22-11-20-1) with the intent to manufacture
 23 methamphetamine, a schedule II controlled substance under
 24 IC 35-48-2-6, commits a Class D felony. However, the offense is a
 25 Class C felony if the person possessed:

26 (1) a firearm while possessing anhydrous ammonia or ammonia
 27 solution (as defined in IC 22-11-20-1) with intent to manufacture
 28 methamphetamine, a schedule II controlled substance under
 29 IC 35-48-2-6; or

30 (2) anhydrous ammonia or ammonia solution (as defined in
 31 IC 22-11-20-1) with intent to manufacture methamphetamine, a
 32 schedule II controlled substance under IC 35-48-2-6 in, on, or
 33 within one thousand (1,000) feet of:

- 34 (A) school property;
- 35 (B) a public park;
- 36 (C) a family housing complex; or
- 37 (D) a youth program center.

38 ~~(d) Subsection (b)~~ (e) Subsection (c) does not apply to a:

- 39 (1) licensed health care provider, pharmacist, retail distributor,
- 40 wholesaler, manufacturer, warehouseman, or common carrier or
- 41 an agent of any of these persons if the possession is in the regular
- 42 course of lawful business activities; or

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(2) person who possesses more than ten (10) grams of a substance described in ~~subsection (b)~~ **subsection (c)** if the substance is possessed under circumstances consistent with typical medicinal or household use, including:

- (A) the location in which the substance is stored;
- (B) the possession of the substance in a variety of:
 - (i) strengths;
 - (ii) brands; or
 - (iii) types; or
- (C) the possession of the substance:
 - (i) with different expiration dates; or
 - (ii) in forms used for different purposes.

~~(f)~~ **(f)** A person who possesses two (2) or more chemical reagents or precursors with the intent to manufacture:

- (1) Methcathinone, a schedule I controlled substance under IC 35-48-2-4;
- (2) Methamphetamine, a schedule II controlled substance under IC 35-48-2-6;
- (3) Amphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (4) Phentermine, a schedule IV controlled substance under IC 35-48-2-10;

commits a Class D felony.

~~(f)~~ **(g)** An offense under subsection ~~(f)~~ **(f)** is a Class C felony if the person possessed:

- (1) a firearm while possessing two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6; or
- (2) two (2) or more chemical reagents or precursors with intent to manufacture methamphetamine, a schedule II controlled substance under IC 35-48-2-6 in, on, or within one thousand (1,000) feet of:
 - (A) school property;
 - (B) a public park;
 - (C) a family housing complex; or
 - (D) a youth program center.

~~(g)~~ **(h)** A person who sells, transfers, distributes, or furnishes a chemical reagent or precursor to another person with knowledge or the intent that the recipient will use the chemical reagent or precursors to manufacture methamphetamine, methcathinone, amphetamine, or phentermine commits unlawful sale of a precursor, a Class D felony.

SECTION 13. [EFFECTIVE JULY 1, 2005] **IC 35-48-4-14.5, as**

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1 amended by this act, and IC 16-42-19.5-4 and IC 16-42-19.5-5, both
 2 as added by this act, apply only to crimes committed after June 30,
 3 2005.

4 SECTION 14. [EFFECTIVE JULY 1, 2005] (a) This SECTION
 5 does not apply to liquid ephedrine or pseudoephedrine (as defined
 6 in IC 16-18-2-204.5).

7 (b) A person who complies with this subsection does not violate
 8 IC 16-42-19.5-4, as added by this act, or IC 35-48-4-14.5, as
 9 amended by this act. Before August 1, 2005, a nonpharmacy
 10 engaged in the retail sale of ephedrine or pseudoephedrine to the
 11 public before July 1, 2005, shall dispose of its inventory of
 12 ephedrine or pseudoephedrine by:

13 (1) arranging a buyback from a distributor or manufacturer;
 14 or

15 (2) permitting a law enforcement agency to take custody of its
 16 inventory of ephedrine or pseudoephedrine.

17 This subsection does not authorize a person described in this
 18 subsection to sell to the public ephedrine or pseudoephedrine after
 19 June 30, 2005.

20 (c) Notwithstanding IC 16-42-19.5, as added by this act, before
 21 September, 1, 2005, a pharmacy shall institute the:

22 (1) secure storage requirements for ephedrine and
 23 pseudoephedrine required for drugs that may only be
 24 dispensed by a pharmacist under IC 25-26-13-18 and
 25 IC 25-26-13-19; and

26 (2) identification and logging requirements described in
 27 IC 16-42-19.5-2(3), as added by this act.

28 (d) This SECTION expires January 1, 2006.

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